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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/687,846	10/13/2000	Cher Esque	3993968-128859	7769

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Porter Wright Morris & Arthur LLP  
ATTN Intellectual Property Department  
41 South High Street 28th Floor  
Columbus, OH 43215-6194

EXAMINER
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LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/687,846

Applicant(s)

ESQUE, CHER

Examiner

DANIEL LASTRA

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Claims 1-20 have been examined. Application 09/687,846 (SOFTWARE AND METHOD FOR MARKETING ARTISTS) has a filing date 10/13/2000.

#### ***Response to Amendment***

2. In response to Office Action dated 12/29/03, the Applicant amended claims 1-20. Applicant amendment overcame the Section 101 rejection. Applicant filed a declaration Under 35 C.F.R. 1.131 claiming a priority date before January 12, 2000.

#### ***Claim Objections***

3. Claims 6 and 7 are objected to because of the following informalities: "entering and viewing information", should read "for entering and viewing information". Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 8 and 12-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Leeke et al (U.S. 6,587,127).

As per claim 1, Leeke teaches:

A software product for marketing an artist, the software product comprising:

a computer program operational when executed by a computer processor to direct the computer processor to generate a main navigational window viewable on a computer display and having a plurality of buttons, the plurality of buttons including an artists button and an avenues button (see column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25; figures 2, 8, 12, 13 20, 22-27)

wherein the computer program is operational when executed by the computer processor upon activation of the plurality of buttons to direct the computer processor to generate additional windows viewable on the computer display (see column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25; figures 2, 8, 12, 13 20, 22-27)

wherein the artists button opens an artists window having data fields for entering and viewing information relating to particular artists and the avenues button opens an avenues window having data fields for entering and viewing information relating to different avenues of marketing and a computer program storage medium operational to store the computer program (see column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25; figures 2, 8, 12, 13 20, 22-27).

As per claim 2, Leeke teaches:

The software product according to claim 1, wherein the avenues window provides access to data fields for entering and viewing information relating to radio, retail, media, and venues (see figures 3, 8, 12, 13).

As per claim 3, Leeke teaches:

The software product according to claim 1, wherein the avenues window includes a radio button for opening a radio window having data fields for entering and viewing information relating to a radio station (see figure 2), a retail button for opening a retail window having data fields for entering and viewing information relating to a retail outlet (see figure 50), a media button for opening a media window having data fields for entering and viewing information relating to media (see figure 52-56), and a venue button for opening a venue window having data fields for entering and viewing information relating to a venue (see figure 13; column 5, lines 25-31; column 7, line 63 – column 8, line 16; column 9, lines 17-25).

As per claim 4, Leeke teaches:

The software product according to claim 1, wherein the artists window provides access to data fields for entering and viewing information relating to a particular artist, members associated with the particular artist, and products associated with the particular artist (see figures 20-21; 25-27; column 10, lines 5-15).

As per claim 8, Leeke teaches:

The software product according to claim 1, wherein the artists window includes an artists tab for opening a window layer having data fields for entering and viewing information relating to a particular artist, a members tab for opening a window layer having data fields for entering and viewing information relating to members associated with the particular artist, and a products tab for opening a window layer having data fields for entering and viewing information relating to products associated with a particular artist (see figures 49-50).

As per claim 12, Leeke teaches:

The software product according to claim 1, wherein data fields are provided to store submissions of an artist by name and format (see column 13, lines 13-21; figures 20-21).

As per claim 13, Leeke teaches:

The software product according to claim 12, wherein the format is one of a plurality of predetermined formats (see column 13, lines 13-21).

As per claim 14, Leeke teaches

The software product according to claim 12, wherein stored data can be moved between active and archived status and data in archived status can be retrieved by format (see column 1, lines 14-20).

As per claim 15, the software product according to claim 1, contains the same limitations as claim 14 therefore the same rejection is applied.

As per claim 16, Leeke teaches:

The software product according to claim 1, wherein the plurality of buttons includes an events button and the events button opens an events window having data fields for entering and viewing information relating to particular events (see figure 13).

As per claim 17, Leeke teaches:

The software product according to claim 16, wherein the events window includes data fields for entering and viewing an event type for each particular event and the event type is one of a plurality of predetermined event types (see figures 13-14; column 16, lines 1-25).

As per claim 18, Leeke teaches:

The software product according to claim 16, wherein the events window categorizes event data according to avenues of marketing including radio, retail, media, and venue (see figures 3, 8, 12, 13).

As per claim 19, Leeke teaches:

The software product according to claim 1, wherein the plurality of buttons includes a search button and the search button opens a search window having data fields for entering and viewing information relating to parameters of a search of stored data and the data fields of the search window are adjusted according to a selected avenue of marketing including radio, retail, media, and venue (see figures 22, 23).

Claim 20 is a composite of claims 1 and 2 therefore the same rejection is applied.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-7 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leeke et al (U.S. 6,587,127) in view of White et al (U.S. 6,628,302).

As per claim 5, Leeke teaches the software product according to claim 4, but fails to teach wherein the artists window provides access to data fields for entering and viewing information relating to tour dates associated with the particular artist, and an itinerary associated with the particular artist. White teaches a system that presents

information related to the selection of particular artists, such as artist's biography, critic reviews, listing of other recording of the same selection by different artists, the artist's upcoming concert schedule, etc (see column 7, lines 1-22). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Leeke would present upon user's selection, the artist's upcoming schedule, as taught by White. This feature would help users know the artist's schedule and have the possibility of seeing the artist performs live.

As per claim 6, Leeke and White teach the software product according to claim 5, wherein the artists window provides access to data fields for entering and viewing information relating to biographical information associated with the particular artist, and association affiliations associated with the particular artist. White teaches a system that presents information related to the selection of particular artists, such as artist biography, critic reviews, listing of other recording of the same selection by different artists, the artist's upcoming concert schedule, etc (see column 7, lines 1-22). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the application was made, to know that Leeke would present upon user's selection, the artist's biography and related affiliations, as taught by White. This feature would help users obtain more personal information about their favorite artists.

As per claim 7, Leeke and White teach the software product according to claim 5, wherein the artists window provides access to data fields for entering and viewing information relating to notes associated with the particular artist (see column 21, lines 1-16).



As per claim 9, Leeke teaches the software product according to claim 8, but fails to teach wherein the artists window includes a tour dates tab for opening a window layer having data fields for entering and viewing information relating to tour dates associated with the particular artist, and an itinerary tab for opening a window layer having data fields for entering and viewing information relating to an itinerary associated with the particular artist. However, the same rejection applied to claim 5 is applied to claim 9.

Claim 10, Leeke and White teach the software product according to claim 9, wherein the artists window includes a biography tab for opening a window layer having data fields for entering and viewing information relating to a biography associated with the particular artist, and an affiliations tab for opening a window layer having data fields for entering and viewing information relating to association affiliations associated with the particular artist. See rejection of claim 6.

As per claim 11, Leeke and White teach the software product according to claim 9, wherein the artists window includes a notes tab for opening a window layer having data fields for entering and viewing information relating to notes associated with the particular artist (see column 21, lines 1-16).

### ***Response to Arguments***

6. Applicant's arguments, filed 04/22/04, with respect to the rejection(s) of claim(s) 1-20 under Chacker have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Leeke et al (U.S. 6,587,127) and White et al (U.S. 6,628,302).

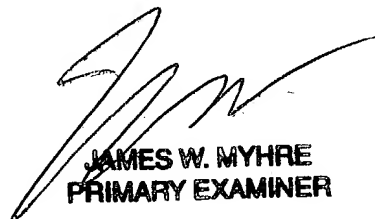
**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DL  
Daniel Lastra  
June 12, 2004

  
JAMES W. MYHRE  
PRIMARY EXAMINER